

REMARKS

As a preliminary matter, Applicant thanks the Examiner and her supervisor, Examiner Layno, for the time and courtesy extended to Applicant's representatives during the personal interview of July 20, 2006 in which the outstanding Office Action was discussed. In that Office Action,¹ the Examiner took the following actions:

- (a) required affirmation of Applicant's oral election to prosecute claims 1-16 and 24-27;
- (b) rejected claims 1-4, 10, 24, 26, and 27 under 35 U.S.C. § 103(a) as being unpatentable over Lu (U.S. Patent No. 6,937,895) ("Lu");
- (c) rejected claims 5, 7, 9, and 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Pohndorf et al. (U.S. Patent No. 4,628,934) ("Pohndorf");
- (d) rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Lu and Pohndorf in view of Vollmann et al. (U.S. Patent No. 4,561,442) ("Vollmann");
- (e) rejected claims 8 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Lu and Pohndorf in view of Vollmann and further in view of Duggan (U.S. Patent No. 5,318,593) ("Duggan"); and
- (f) rejected claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Lu in view of Duggan.

With respect to the Examiner's election requirement, although Applicant does not agree with it, Applicant hereby affirms his oral election to prosecute Specie I, claims 1-16 and 24-27. Accordingly, claims 1-32 remain pending, with claims 1-16 and 24-27 under current examination.

During the interview, Applicant's representatives agreed to amend claim 24, as a matter of form only, to recite "means for generating a sequential pair of pacing pulses" instead of "signal generator means for generating a sequential pair of pacing pulses." Claim 24 has been so

¹ The Office Action contains statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

amended in this response. In addition, other elements in claims 24-27 have been amended in a similar manner for consistency.

With respect to the rejections of claims 1-16 and 24-27 under § 103(a), Applicant respectfully traverses them because a *prima facie* case of obviousness has not been established. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Finally, there must be a reasonable expectation of success. *See* M.P.E.P. § 2143.

Independent claim 1 is directed to a pacemaker and recites a combination of features including a first electrode electrically coupled to an atrial chamber; a second electrode electrically coupled to a ventricular chamber; a signal generator to generate a sequential pair of pacing pulses; a first lead coupled to the signal generator and to the first electrode; a second lead coupled to the signal generator and to the second electrode; and a distributor circuit, connected between the first lead and the signal generator and between the second lead and the signal generator, to receive the pair of pacing pulses, distribute a first pacing pulse from the pair at a first amplitude to the first lead, and distribute a second pacing pulse from the pair at a second amplitude to the second lead after a delay period. None of the applied references, including Lu, either singly or in combination, teaches or suggests this a combination of features.

For example, the applied references do not teach or suggest at least a signal generator to generate a sequential pair of pacing pulses or a distributor circuit, connected between the first lead and the signal generator and between the second lead and the signal generator, to receive the

pair of pacing pulses, distribute a first pacing pulse from the pair at a first amplitude to the first lead, and distribute a second pacing pulse from the pair at a second amplitude to the second lead after a delay period, as required by claim 1. Accordingly, claim 1 is allowable. Independent claim 24 is also allowable at least because it recites features similar to those in claim 1.

Indeed, during the interview, the Examiner indicated that she would withdraw Lu as a reference against the pending claims. Accordingly, Applicant respectfully requests that the rejection of claims 1 and 24 under § 103(a) be withdrawn and the claims be allowed. In addition, claims 2-16 and 25-27 should also be allowed at least because they depend from claims 1 and 24, which are allowable for the reasons set forth above.

Finally, Applicant notes that the Examiner crossed out several references listed on the copy of the PTO/SB/08 form returned with the Office Action, corresponding to the Information Disclosure Statement (IDS) filed on April 11, 2006. First, in several instances, the Examiner marked “could not find/identify” on the PTO/SB/08. Second, the Examiner crossed out “D’AIOTOLO et al., “Tratamiento De Las Arritmias Cardiacas,” Buenos Aires (1968) (in Spanish). pp. 1-112” and “SILVA, “Influencia de la Localizacion de la Estimulacion Electrica Ventricular Sobre la Eficiencia Cardiaca. Estudio Experimental Y Clinico,” Tesis Doctoral para la Universidad Autonoma De Madrid Facultad de Medicina (1987), pp. 1-150 (Doctoral Thesis, in Spanish).” During the Interview, Applicant’s representatives pointed out that Applicant will resubmit copies of the references the Examiner indicated were missing and will provide either full or partial English-language translation of the two non-English documents mentioned above. Applicant notes that these materials will be provided with a Supplemental IDS that Applicant will file in the near future. Applicant respectfully requests the Examiner to consider these materials when they are resubmitted.

In view of the foregoing, Applicant requests reconsideration of the application and withdrawal of the rejections. Pending claims 1-16 and 24-27 are in condition for allowance, and Applicant requests a favorable action.

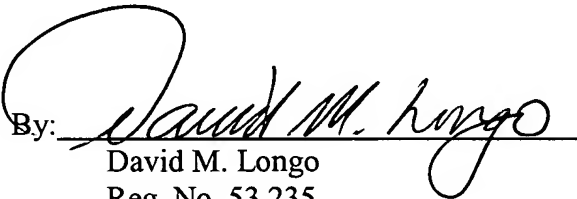
If there are any remaining issues or misunderstandings, Applicant requests the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: August 2, 2006

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